

RECEIPT # 63332
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 BY DPTY. CLK. 17
 DATE 4-7-05

**IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF MASSACHUSETTS**

MUELLER CO.
 500 West Eldorado Street
 Decatur, Illinois 62522,
 --and--
 MUELLER INTERNATIONAL, INC.,
 110 Corporate Drive, Suite 10
 Portsmouth, New Hampshire 03801,

Plaintiff,

v.

UNITED STATES PIPE & FOUNDRY
 CO.
 3300 First Avenue North
 Birmingham, Alabama 35222,

Defendants

CIVIL ACTION NO.

JUDGE:

**COMPLAINT FOR PATENT
 INFRINGEMENT**

05 - 10682 RCL

PARTIES AND JURISDICTION

MAGISTRATE JUDGE

Bowler

1. Mueller Co. is a corporation organized and existing under the laws of Illinois with its principal place of business in Decatur, Illinois.
2. Mueller International, Inc. ("MII," and, collectively with Mueller Co., "Mueller") is a corporation organized and existing under the laws of Delaware with its principal place of business in Portsmouth, New Hampshire.
3. Upon information and belief, United States Pipe & Foundry Co. ("U.S. Pipe") is a corporation with its principal place of business in Birmingham, Alabama.
4. This action for patent infringement is brought under the patent laws of the United States, including 35 U.S.C. §§271 et seq.

5. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§1331 and 1338(a).

6. Venue is proper in this Court pursuant to 28 U.S.C. §§1391(b) and (c) and 1400(b) as the product accused of infringing the patent in suit has been and is being sold in this district.

CLAIM FOR PATENT INFRINGEMENT
(Count I)

7. Mueller realleges and incorporates by reference Paragraphs 1 through 6 of this Complaint as if separately restated herein.

8. MII is the owner of all right, title and interest in and to U.S. Patent No. 4,842,246 (the “‘246 Patent”) which duly issued on June 27, 1989, entitled “Valve Seat Configuration.” A copy of the ‘246 Patent is attached as Exhibit A. MII has issued an exclusive license to Mueller Co. to use the intellectual property identified by the ‘246 Patent.

9. U.S. Pipe manufactures, offers for sale and sells in the United States, including in this judicial district, the METROFLOW™/M-03 Hydrant (the “U.S. Pipe Infringing Device”).

10. The U.S. Pipe Infringing Device has infringed and continues to infringe the claims of the ‘246 Patent.

11. U.S. Pipe has infringed and continues to infringe the ‘246 Patent by manufacturing, offering for sale and selling the U.S. Pipe Infringing Device in this judicial district and elsewhere and will continue to do so unless enjoined by this Court.

12. U.S. Pipe's acts of infringement are willful as U.S. Pipe has actual knowledge of the '246 Patent.

13. U.S. Pipe's acts of infringement have caused and will continue to cause substantial and irreparable damage to Mueller.

14. Mueller has no adequate remedy at law.

WHEREFORE, Mueller requests the relief set forth below.

PRAYERS FOR RELIEF

1. That the Court enter judgment that defendant has infringed the '246 Patent;

2. That pursuant to Count I, the Court preliminarily and permanently enjoin defendant, its subsidiaries, affiliates, divisions, officers, agents, servants, employees, directors, partners, representatives and all parties in active concert and/or participation with them from directly or indirectly making, having made, selling, offering for sale, distributing and/or using products that infringe the '246 Patent including the U.S. Pipe Infringing Device;

3. That the Court enter judgment that defendant's acts of infringement were committed willfully;

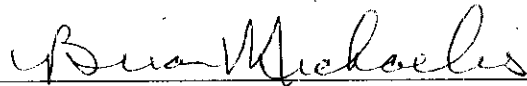
4. That the Court award Mueller damages adequate to compensate for U.S. Pipe's infringement, together with interest;

5. That the Court treble damages pursuant to 35 U.S.C. § 284;

6. That the Court find this to be an exceptional case under 35 U.S.C. § 285 and award Mueller its reasonable attorneys' fees and costs; and

7. Such other and further relief that this Court deems just and proper.

Respectfully submitted,
MUELLER CO. and MUELLER
INTERNATIONAL, INC.,
By their attorneys,



Brian L. Michaelis (BBO #555159)
Travis Corder (BBO #645054)
George S. Haight IV (BBO #660935)
BROWN RUDNICK BERLACK ISRAELS LLP
One Financial Center
Boston, Massachusetts 02111
(617) 856-8200

Dated: April 7, 2005

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United States Patent [19]

Floren et al.

[11] **Patent Number:** 4,842,246[45] **Date of Patent:** Jun. 27, 1989[54] **VALVE SEAT CONFIGURATION**[75] **Inventors:** Carl E. Floren, Decatur; Timothy M. Logman, Monticello, both of Ill.[73] **Assignee:** Mueller Co., Decatur, Ill.[21] **Appl. No.:** 182,024[22] **Filed:** Apr. 15, 1988[51] **Int. Cl.⁴** F16K 1/42[52] **U.S. Cl.** 251/333; 251/357[58] **Field of Search** 251/333, 357[56] **References Cited****U.S. PATENT DOCUMENTS**

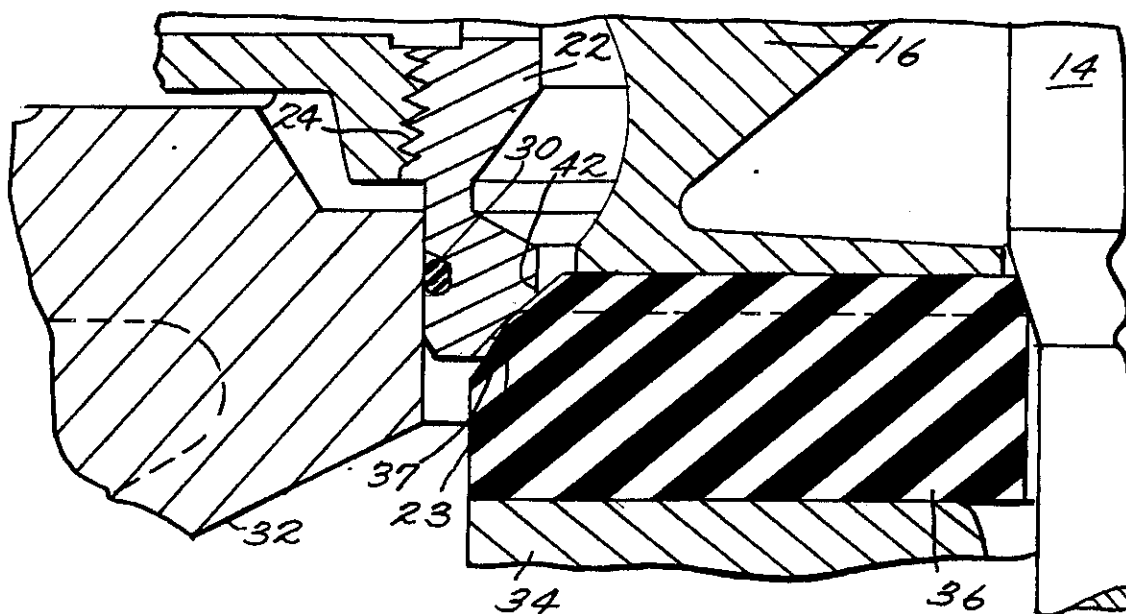
3,510,103 5/1970 Carsello 251/333

FOREIGN PATENT DOCUMENTS

1080350 4/1960 Fed. Rep. of Germany 251/333

Primary Examiner—Arnold Rosenthal
Attorney, Agent, or Firm—Cushman, Darby & Cushman[57] **ABSTRACT**

An improved compression type valve for a fire hydrant or the like includes an improved resilient valve member for sealingly engaging a seating ring in order to control the passage of fluid through the valve. The improved valve member is provided with a first bevel extending from a side surface thereof toward the top surface of the valve member, and with a second bevel which extends from the first bevel to the top surface. The second bevel prevents pressure which is applied to the valve element from causing the top surface of the valve element to deform around its circumference and break off, as was the case with prior art valve members of this type.

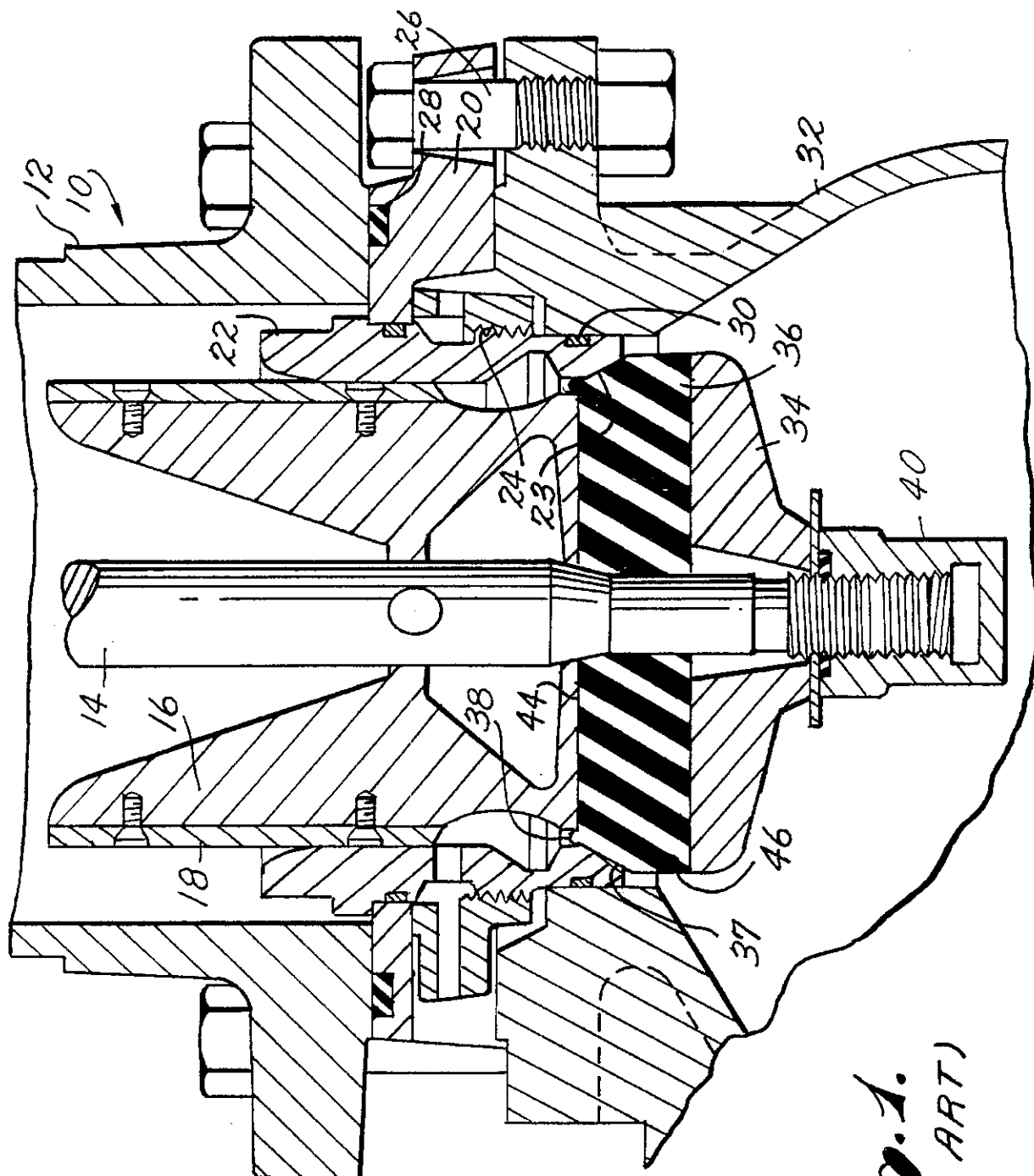
2 Claims, 3 Drawing Sheets

U.S. Patent

Jun. 27, 1989

Sheet 1 of 3

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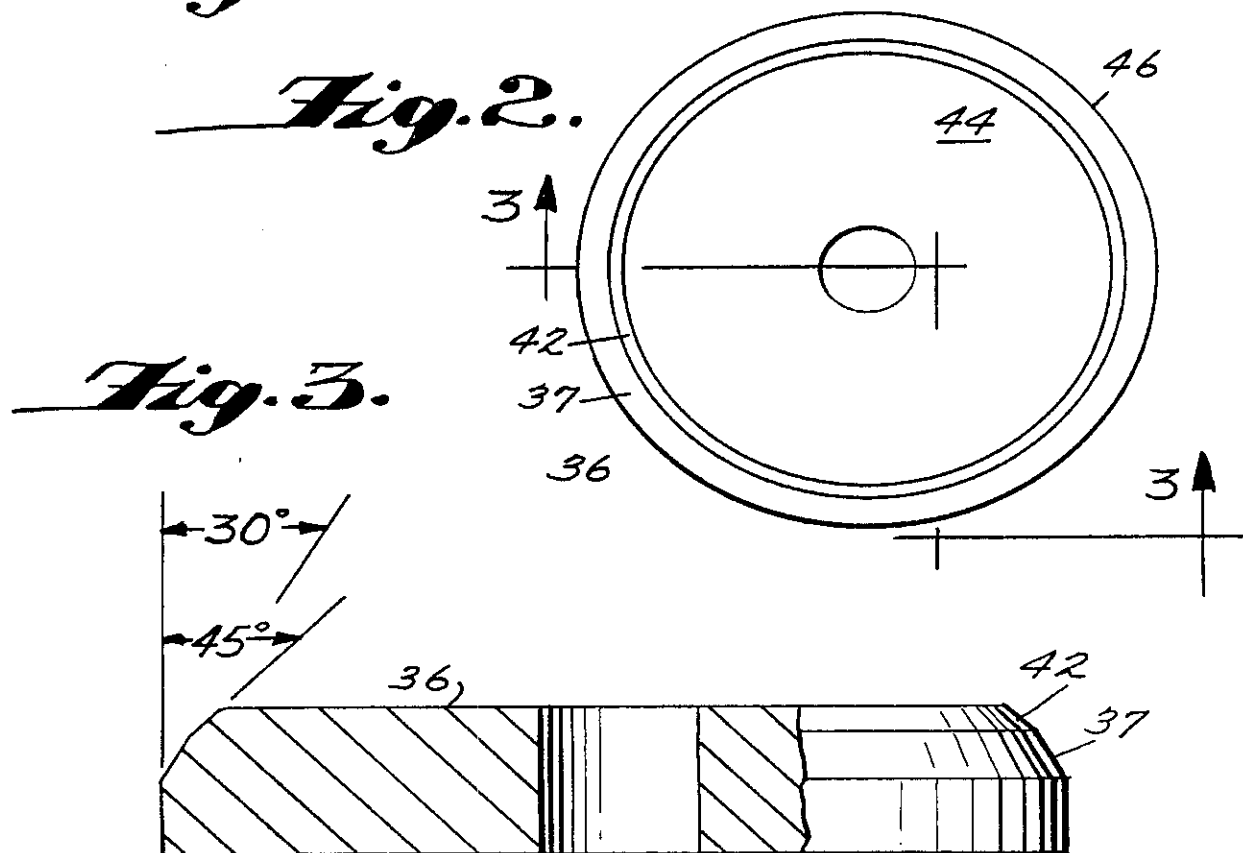
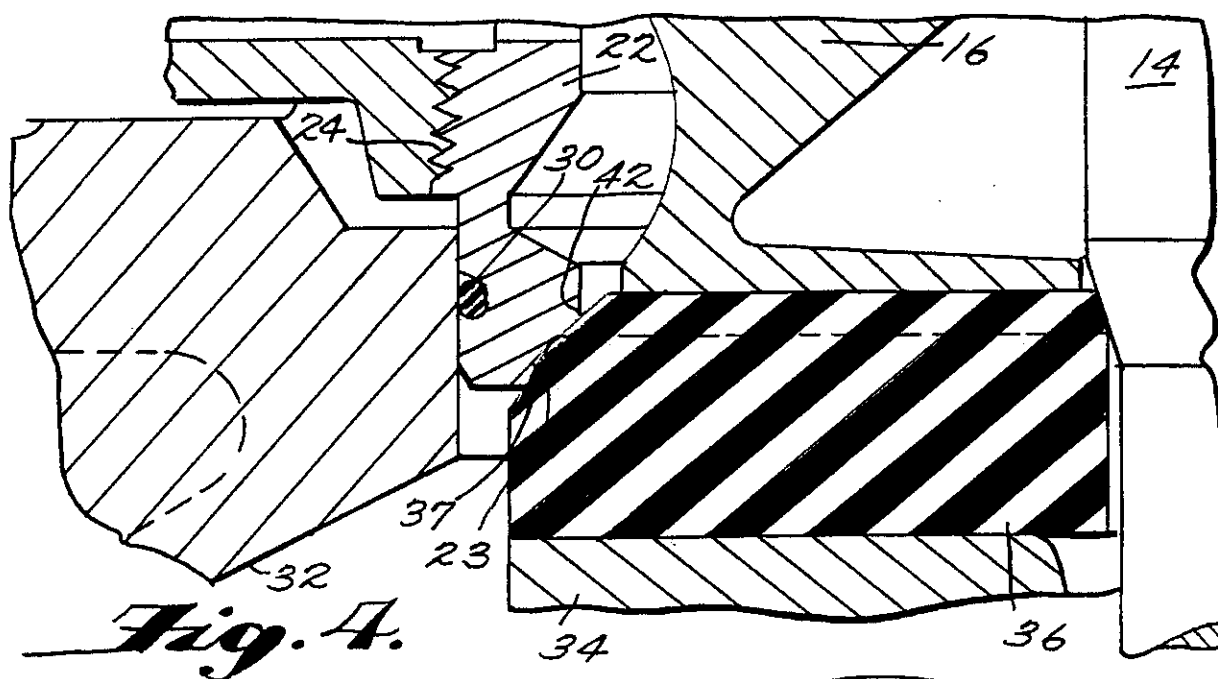


U.S. Patent

Jun. 27, 1989

Sheet 2 of 3

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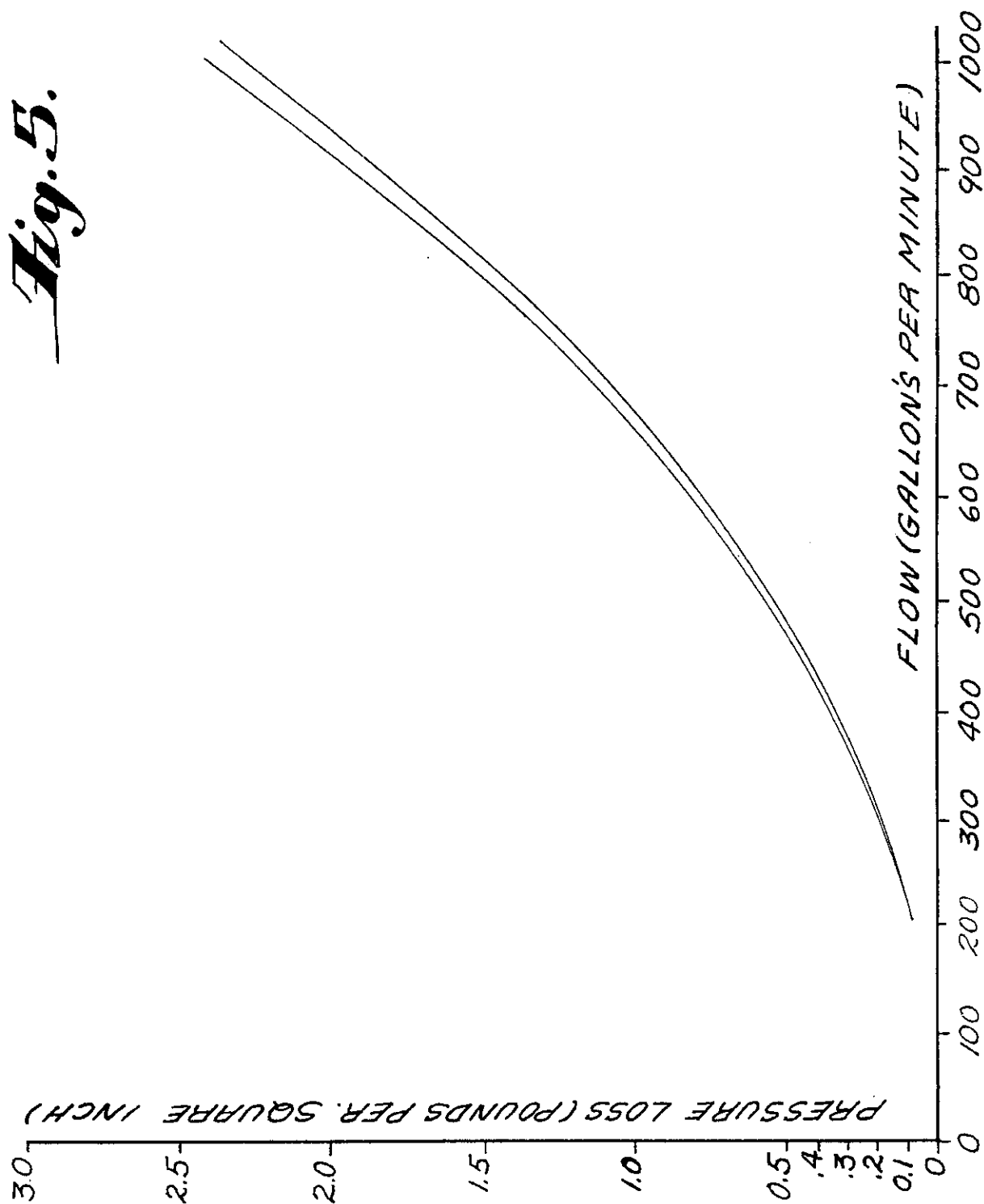


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VALVE SEAT CONFIGURATION

BACKGROUND OF THE INVENTION

1. Field of the Invention

The present invention relates to the field of valve seats which are used to stem the flow of a fluid within a valve. More particularly, the present invention relates to an improved main valve seat for use in a fire hydrant having improved pressure loss characteristics at a given flow rate.

2. Description of the Prior Art

The typical valve seat configuration for a prior art fire hydrant is illustrated in FIG. 1. The hydrant 10 includes a vertical barrel 12 which extends upwardly from a connection with a contoured shoe 32, which is connected to a water supply pipe. A drain ring housing 20 is secured between the barrel 12 and the contoured shoe 32 by means of a bolt 26 and is sealed with respect to barrel 12 by a gasket 28. A bronze seat ring 22 is threadedly engaged to an interior portion of drain ring housing 20 through a threaded connection 24. The seat ring 22 has a beveled seating surface 23 defined in an interior portion thereof for sealing against a main valve element 36.

In such prior art valves, it was common to provide a first bevel 37 between the side surface 46 and top surface 44 of the main valve element 36. In operation, a valve stem 14 would be pulled up, causing a valve plate 34 to urge main valve element 36 toward seat ring 22, so that the first bevel 37 engaged the seating surface 23 of seat ring 22. However, when pressure was applied to the valve, it was common for plastic creep to occur, causing a bulge 38 to form in the recess defined between the seating surface 23 of seat ring 22 and valve plate 16. As a result, the material forming main valve element 36 would eventually become fatigued, causing the top surface of the valve element to deform and eventually break off. As a result, frequent maintenance of such devices was required.

It is clear that there exists a long and unfilled need in the prior art for a valve seat configuration which prevents pressure which is applied to the valve element from causing the top surface of the valve element to deform around its circumference and break off, as was the case with prior art valve members of this type.

ASSEMBLY OF THE INVENTION

It is thus an object of the present invention to provide a valve seat configuration which prevents pressure which is applied to the valve element from causing the top surface of the valve element to deform around its circumference and break off, as was the case with prior art valve members of this type.

A compression-type valve constructed according to the present invention for controlling the flow of fluid between a first and second space includes a seating ring, and a valve member for sealingly engaging the seating ring, which includes a resilient cylindrical body having a side surface, a top surface and a bottom surface, a first inward bevel being defined circumferentially from the side surface toward the top surface, and a second bevel defined circumferentially between the first bevel and the top surface, the second bevel being inclined at a greater angle with respect to the axis of the cylindrical body than the first bevel, whereby polymer creep and resultant fragmentation along the top surface of the

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valve element is prevented, and a linkage for moving the valve member relative to the seating ring.

Other objects, features, and characteristics of the present invention, as well as the methods and operation and functions of the related elements of the structure, and to the combination of parts and economies of manufacture, will become apparent upon consideration of the following description in the appended claims with reference to the accompanying drawings, all of which form a part of this specification, wherein like reference numerals designate corresponding parts in the various figures.

BRIEF DESCRIPTION OF THE DRAWINGS

FIG. 1 is a cross-sectional view of a prior art compression-type valve configuration;

FIG. 2 is a cross-section top plan view of a main valve member constructed according to the present invention;

FIG. 3 is a view taken partially in cross-section along lines 3—3 in FIG. 2;

FIG. 4 is a cross-sectional view of the valve seat configuration of the present invention; and

FIG. 5 is a graph illustrating the improved pressure loss characteristics of a valve constructed according to the present invention at a given flow rate.

DETAILED DESCRIPTION OF THE PREFERRED EMBODIMENT

Referring to FIG. 2, a valve constructed according to the present invention utilizes a main valve member 36 having a top surface 44, a side surface 46, a first beveled portion 37 extending from side surface 46 toward top surface 44, and a second beveled surface 42 extending from the first beveled surface 37 to top surface 44.

The valve configuration of the present invention is best illustrated in FIG. 4. Valve stem 14, valve plate 16, seat ring 22 and the threaded connection 24 are all conventional as illustrated in prior art FIG. 1. As in the prior art, an O-ring 30 is provided to ensure a sealing connection between seat ring 22 and the contoured shoe 32. As is shown in FIG. 4, the seating surface 23 of seat ring 22 engages main valve element 36 at a point intermediate the first and second bevel portions 37, 42. Thus, a greater amount of force per unit area is applied at the interface between seat ring 22 and main valve element 36 and was the case in prior art valves. As a result, sealing can be accomplished with less total force and less deformation of the main valve 36. In addition, what deformation does occur will tend not to cause plastic creep of the material forming the main valve 36 into the gap between valve plate 16 and seal ring 22, as was the case in prior art valve configurations, since second bevel 42 reduces the volume of the main valve element 36 which is immediately adjacent the gap. As a result, the portion of main valve 36 adjacent the gap will not break off during repeated use, thus lengthening the life of the valve.

In the preferred embodiment, as is illustrated in FIG. 3, the first bevel is formed at an angle of 30° with respect to the axis of the cylindrical main valve element 36. The second bevel 42 is preferably formed at an angle of approximately 45° with respect to the axis of main valve element 36.

The efficacy of a valve constructed according to the configuration illustrated in FIGS. 2-4 is depicted in FIG. 5 in contrast to the performance of a prior art valve such as that which is illustrated in FIG. 1. As is

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shown in FIG. 5, a valve constructed according to the present invention experiences less pressure loss at a given flow rate than a valve of the type which has been used in the past. It is felt that this increase in performance over the prior art is a result of both the inherent flow characteristics of the improved configuration of main valve seat 36 and the reduction in wear and deformation of the main valve member that is attributable thereto.

While the invention has been described in connection with what is presently considered to be the most practical and preferred embodiment, it is to be understood that the invention is not limited to the disclosed embodiment, but, on the contrary, is intended to cover various modifications and equivalent arrangements included within the spirit and scope of the appended claims.

What is claimed is:

1. A compression-type valve for a fire hydrant or the like, comprising:
 - means defining a first space to which fluid may be supplied;
 - means defining a second space to which the flow of fluid is to be controlled;

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seating ring means interposed between said means defining said first and second spaces;

valve means for sealingly engaging said seating ring means including a resilient cylindrical body having a central axis and having a side surface, a top surface and a bottom surface, a first inward bevel being defined circumferentially from said side surface toward said top surface, and a second bevel defined circumferentially between said first bevel and said top surface, said second bevel being inclined at a greater angle with respect to the axis of said cylindrical body than said first bevel, whereby polymer creep and resultant fragmentation along the top surface of the valve element is prevented, said first bevel being inclined with respect to the axis of said cylindrical body at an angle of 30° and said second bevel being inclined with respect to the axis of said cylindrical body at an angle of 45°; and means for moving said valve means relative to said seating ring means.

2. Apparatus according to claim 1, wherein an axial bore is defined in said cylindrical body for accommodating said moving means.

* * * * *

*JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Mueller Co. and Mueller International, Inc.

(b) County of Residence of First Listed Plaintiff Macon County

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Brian Michaelis (617) 856-8200

Brown Rudnick Berlack Israels LLP

One Financial Center, Boston, MA 02111

DEFENDANTS

United States Pipe & Foundry Co.

County of Residence of First Listed Defendant Jefferson County(IN U.S. PLAINTIFF CASES ONLY) 4-10-10

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|---------------------------------------|---------------------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input checked="" type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

35 U.S.C. 271

Brief description of cause:

patent dispute**VII. REQUESTED IN COMPLAINT:**
☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

04/07/05

SIGNATURE OF ATTORNEY OF RECORD

Brian Michaelis

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS1. Title of case (name of first party on each side only) Mueller Co. v. United States Pipe & Foundry Co.

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

- ☐ I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.
- ☒ II. 195, 196, 368, 400, 440, 441-446, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950. *Also complete AO 120 or AO 121 for patent, trademark or copyright cases
- ☐ III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- ☐ IV. 220, 422, 423, 430, 460, 480, 490, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- ☐ V. 150, 152, 153.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

None

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES ☐ NO ☒

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES ☐ NO ☒

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES ☐ NO ☐

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES ☐ NO ☒7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).YES ☐ NO ☒A. If yes, in which division do all of the non-governmental parties reside?Eastern Division ☐ Central Division ☐ Western Division ☐

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division ☐ Central Division ☐ Western Division ☐

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES ☐ NO ☐

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Brian MichaelisADDRESS Brown Rudnick Berlack Israels LLP, One Financial Ctr., Boston, MA 02111TELEPHONE NO. 617-856-8200